

Key Issues in Settlement Negotiations re *Maine v. Pruitt*

- 1) **Seat at the Table:** The Houlton Band of Maliseet Indians intervened as of right in *Maine v. Pruitt* and enjoys full party status. It has a right to participate in any negotiated settlement. Moreover, the EPA has a trust obligation to the tribes in Maine, and the agency should make every effort to ensure the tribes have a seat at the table.
- 2) **Necessary Outcomes For Any Settlement:** The most basic requirement of any settlement is that the water quality standards must be protective of tribal sustenance fishing.
Key components:
 - a. **Sustenance Fishing Designated Use:** A key component of any settlement must be that sustenance fishing remain a designated use of tribal waters.
 - b. **Protective Fish Consumption Rate (FCR):** The FCR must be protective of the designated use of sustenance fishing and, in turn, the health of tribal members exercising their traditional lifeways. While the Wabanaki Study is the best available science (and 286 g/day is the appropriate FCR), the Band would be open to negotiating this issue.
 - c. **Cancer Risk Rate of 10^{-6} :** The Houlton Band cannot countenance a settlement that would allow its tribal members engaged in traditional lifeways to be exposed to a greater cancer risk than other people in Maine.
- 3) **Consultation Requirement:** The settlement agreement should set forth a consultation process by which Maine DEP consults with the affected tribes in setting water quality standards for tribal waters.